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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/517,465	03/02/2000	Max M. Maurer	PO9-99-094(12866)	4497

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EXAMINER

CRAIG, DWIN M

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 04/09/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,465

Applicant(s)

MAURER, MAX M. PR4

Examiner

Dwin M Craig

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03-02-2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-9 have been presented for examination. Claims 1-9 have been examined and rejected.

Specification

2. The attempt to incorporate subject matter into this application by reference to two applications (Pages 1 and 20 of the specification), which appear to consist of essential matter, is improper because there is insufficient identification so as to direct the Examiner or future potential readers to the referenced material. The Examiner requires this information in order to properly review Applicant's specification. Furthermore, if the current application issues as a patent before the two applications, Applicants will be required to physically incorporate the incorporated material into the instant specification. Please refer to section 608.01(p) which recites:

⌘Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. In re de Seversky, 474 F.2d 671, 177 USPQ 144 (CCPA 1973). In addition to other requirements for an application, the referencing application should include an identification of the referenced patent, application, or publication. Particular attention should be directed to specific portions of the referenced document where the subject matter being incorporated may be found. Guidelines for situations where applicant is permitted to fill in a number for Application No. _____ left blank in the application as filed can be found in In re Fouche, 439 F.2d 1237, 169 USPQ 429 (CCPA 1971) (Abandoned applications less than 20 years old can be incorporated by reference to the same extent as copending applications; both types are open to the public upon the referencing application issuing as a patent. See MPEP § 103)⌘

Art Unit: 2123

Specifically, the Applicant needs to amend the specification to include the following: On Pages 1 and 20 include the following, [U.S. Patent Application No. 09516708, entitled “INTELLIGENT WORKSTATION SIMULATION SIMULATION AT PROTOCOL STACK LEVEL 2 filed on 2 March 2000 and U.S. Patent Application No. 09517534 “INTELLIGENT WORK STATION SIMULATION - GENERALIZED LAN FRAME GENERATION SIMULATION STRUCTURE”, filed on 2 March 2000].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahkoska et al. U.S. Patent 6,002,671 in view of Kram U.S. Patent 6,314,531.

3.1 As regards independent **Claims 1, 4, 5, 7 and 8** the *Kahkoska et al.* reference discloses inserting generated network frames (**Figures 3A, 3B, Col. 6 Lines 16-30**), transferring one or more simulated frames (**Col. 6 Lines 16-30**), and a NIC (**Figure 4, Col. 2 Lines 11-23, Col. 4 Lines 30-45, Col. 7 Lines 43-55**).

The *Kahkoska et al.* reference does not expressly disclose multiple virtual clients, unique identifiers, and a bridge/router.

The *Kram* reference discloses multiple virtual clients (**Figure 3, Items E1, E2, and E3**), unique identifiers (**Figure 2**), and a bridge/router (**Figure 3, Item 303**).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to have modified the *Kahkoska et al.* reference with the *Kram* reference because, (*motivation to combine*) the *Kram* reference discloses a method to test and debug software in a network environment (*Kram Col. 3, Lines 50-56*).

3.2 As regards **Claim 2** the *Kahkoska et al.* reference discloses a channel connection (**Figures 1, 2**).

3.3 As regards **Claim 4** the *Kahkoska et al.* reference does not expressly disclose a plurality of split bridges or broadcast messages.

The *Kram* reference discloses a plurality of bridge/routers (**Figure 3 Items switch 5, switch 4, switch 6**) and broadcast messages (**Col. 3 Lines 15-27, Col. 5 Lines 22-27**).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to have modified the *Kahkoska et al.* reference with the *Kram* reference because, (*motivation to combine*) the *Kram* reference discloses a method to test and debug software in a network environment (*Kram Col. 3, Lines 50-56*).

3.4 As regards **Claim 5** the *Kahkoska et al.* reference discloses a client workstation (**Figure 1, Item 14**).

3.5 As regards **Claim 6** the *Kahkoska et al.* reference does not expressly disclose unique frame identifiers.

The *Kram* reference discloses unique frame identifiers (**Figure 2**).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to have modified the *Kahkoska et al.* reference with the *Kram* reference because,

Art Unit: 2123

(*motivation to combine*) the *Kram* reference discloses a method to test and debug software in a network environment (*Kram Col. 3, Lines 50-56*).

3.6 As regards **Claim 7** the *Kahkoska et al.* reference discloses transmitting a client request in a predetermined amount of time (**Figure 3A, 3B, Col. 3 Lines 15-25**).

3.7 As regards **Claim 8** the *Kahkoska et al.* reference does not expressly disclose machine readable instructions on storage media.

The *Kram* reference discloses machine readable instructions on storage media (**Figure 4**).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to have modified the *Kahkoska et al.* reference with the *Kram* reference because, (*motivation to combine*) the *Kram* reference discloses a method to test and debug software in a network environment (*Kram Col. 3, Lines 50-56*).

3.8 As regards **Claim 9** the *Kahkoska et al.* reference does not expressly disclose a plurality of Client workstations and unique identifiers.

The *Kram* reference discloses multiple client workstations (**Figure 3, Items E1, E2, and E3**), unique identifiers (**Figure 2**).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to have modified the *Kahkoska et al.* reference with the *Kram* reference because, (*motivation to combine*) the *Kram* reference discloses a method to test and debug software in a network environment (*Kram Col. 3, Lines 50-56*).

Art Unit: 2123

4. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kahkoska et al. U.S. Patent 6,002,671** in view of **Kram U.S. Patent 6,314,531** and in further view of **Shmid et al. U.S. Patent 6,530,078**.

4.1 As regards independent **Claim 1** see the rejection in paragraph 3.1 above.

4.2 As regards **Claim 3** the *Kahkoska et al.* reference does not expressly disclose an OSA or Open System Adapter connection.

The *Shmid et al.* reference discloses an Open System Adapter connection (Col. 9 Lines 30-47).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to have modified the *Kahkoska et al.* reference with the *Shmid et al.* reference because, (*motivation to combine*) the *Shmid et al.* reference discloses a method to quickly and efficiently migrate applications from any operating system to an OS/390 system (*Shmid et al. Col. 2 Lines 24-31*).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwin M Craig whose telephone number is 703 305-7150. The examiner can normally be reached on 9:00 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703 305-9704. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Art Unit: 2123

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-3900.

DMC

April 6, 2003

RUSSELL FREJD
RUSSELL FREJD
PRIMARY EXAMINER